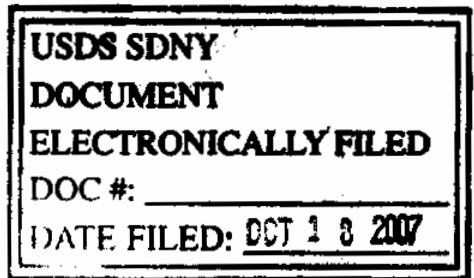


UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK



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KLAUBER BROTHERS, INC.,	:	
	:	
Plaintiff	:	Civil Action No.: 07 CV 6133 (PAC)
	:	ECF Case
v.	:	
	:	
DREAMWEAR, INC.	:	REVISED
	:	<u>CASE MANAGEMENT PLAN</u>
Defendant.	:	

-----x

This Revised Civil Case Management Plan, submitted in accordance with Rule 26(f), Fed. R. Civ. P., is adopted as the Scheduling Order of this Court in accordance with Rule 16(f), Fed. R. Civ. P.

1. All parties do not consent to conducting all further proceedings before a Magistrate Judge, including motions and trial. 28 U.S.C. § 636(c).
2. This case is to be tried to a jury.
3. Amended pleadings may not be filed and additional parties may not be joined except with leave of the Court. Any motion to amend or to join additional parties shall be filed within 30 days from the date of this Order. [Absent exceptional circumstances, thirty (30) days.]
4. Initial disclosures pursuant to Rules 26(a)(1), Fed. R. Civ. P., have been completed. [Absent exceptional circumstances, fourteen (14) days.]
5. All fact discovery shall be completed no later than February 22, 2008. [A period not to exceed 120 days, unless the Court finds that the case presents unique complexities or other exceptional circumstances.]
6. The parties are to conduct discovery in accordance with the Federal Rules of Civil Procedure and the Local Rules of the Southern District of New York. The following interim deadlines may be extended by the written consent of all parties without application to the Court, provided all fact discovery is completed by the date set forth in paragraph 5 above:
 - a. Initial requests for production of documents have been served.

- b. Interrogatories have been served.
 - c. Depositions to be completed by January 25, 2008.
 - d. Request to Admit to be served no later than December 21, 2007.
7. a. All expert discovery shall be completed no later than March 21, 2008. [Absent exceptional circumstances, a date forty-five (45) days from the date in paragraph 5, *i.e.* the completion of all fact discovery.]
- b. No later than thirty (30) days prior to the date in paragraph 5, *i.e.* the completion of all fact discovery, the parties shall meet and confer on a schedule for expert disclosures, including reports, production of underlying documents and depositions, provided that (i) plaintiff(s)' expert report(s) shall be due before those of defendant(s)' expert(s); and (ii) all expert discovery shall be completed by the date set forth in paragraph 7(a).
8. All motions and applications shall be governed by the Court's Individual Practices, including pre-motion conference requirements.
9. Counsel have met face-to-face for more than one hour on September 10, 2007 to discuss settlement. Settlement has not been reached.
10. a. Counsel for the parties have conducted an informal exchange of information in aid of an early settlement of this case, which has been unsuccessful.
- b. Counsel for the parties have discussed the use of the following alternate dispute resolution mechanisms for use in this case: (i) a settlement conference before a Magistrate Judge; (ii) participation in the District's Mediation Program; and/or (iii) retention of a privately retained mediator. Counsel for the parties propose the following alternate dispute resolution mechanism for this case: Settlement conference before a Magistrate Judge.
- c. Counsel for the parties recommend that the alternate dispute resolution mechanism designated in paragraph b, be employed at the following point in the case (*e.g.* within the next sixty days; after the deposition of plaintiff is completed (specify date); after the close of fact discovery): within 90 days from the date of this Order.
- d. The use of any alternative dispute resolution mechanism does not stay or modify any date in this Order.
11. The Final Pretrial Submission Date is thirty (30) days following the close of fact and expert discovery (whichever is later). By the Final Pretrial

Submission Date, the parties shall submit a Joint Pretrial Order prepared in accordance with the undersigned's Individual Practices and Rule 26(a)(3), Fed. R. Civ. P. Any motions *in limine* (for which the premotion conference requirement is waived) shall be filed by the Final Pretrial Submission Date. If this action is to be tried before a jury, proposed voir dire, jury instructions and verdict form shall also be filed by the Final Pretrial Submission Date. Counsel are required to meet and confer on a joint submission of proposed jury instructions and verdict form, noting any points of disagreement in the submission. Jury instructions may not be submitted after the Final Pretrial Submission Date, unless they meet the standard of Rule 51(a)(2)(A), Fed. R. Civ. P. If this action is to be tried to the Court, proposed findings of fact and conclusions of law should be submitted by the Final Pretrial Submission Date.

12. Counsel for the parties have conferred and their present best estimate of the length of trial is: Plaintiff: 2 days; Defendant 5 days.

13.

Civil Case Management Plan Requirement	
All fact discovery to be completed no later than:	Feb. 22, 2008
Discovery - depositions to be completed no later than:	Jan. 25, 2008
Discovery - requests to admit to be served no later than:	Dec. 21, 2007
All expert discovery to be completed no later than:	Mar. 21, 2008
Parties to meet to confer on schedule for expert disclosures no later than:	Dec. 21, 2007
Date recommended by counsel for alternate dispute resolution:	within 90 days of Order

PAC

TO BE COMPLETED BY THE COURT:

14. The next Case Management is scheduled for February 26, 2008 at 2:45pm.
The 11-15-07 Conference is cancelled.
This ORDER may not be modified or the dates herein extended, except by further

Order of this Court for good cause shown. Any application to modify or extend shall be made in a written application in accordance with paragraph 1(E) of the Court's Individual Practices and shall be made no less than two (2) days prior to the expiration of the date sought to be extended.



Paul A. Crotty
United States District Judge

Dated: New York, New York
October 18, 2007

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October 12, 2007

VIA E-MAIL

The Honorable Paul A. Crotty
United States District Judge
Southern District of New York
500 Pearl Street
Chambers 735
New York, New York 10007

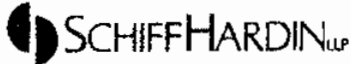
Re: Klauber Brothers, Inc. v. Dreamwear, Inc. 07 Civ. 6133 (PAC)

We are counsel for plaintiff Klauber Brothers, Inc. and defendant Dreamwear, Inc. in the above-referenced matter. We write jointly to respectfully request an extension of the dates provided for in the Court's August 8, 2007 Scheduling Order.

The parties jointly request the extension based on their pursuit of possible settlement of the litigation over the last few weeks during and following the settlement conference on September 10, 2007. While the parties engaged in settlement discussions, they deferred further litigation efforts. The parties have been unable to reach a settlement of their differences at this juncture.

The original dates set forth in the August 8, 2007 Case Management Plan and the requested new dates are as follows:

1. The parties were originally to serve initial requests for production and interrogatories on August 15, 2007. Initial requests for production and interrogatories have been served. The time for each of the plaintiff and the defendant to respond to the first set of requests for the production of documents and the first set of interrogatories propounded by the other is extended to and including November 14, 2007;
2. The deadline for service of requests to admit is extended from November 5, 2007 to and including December 21, 2007;
3. The deadline for the parties to meet and confer on the schedule for expert disclosure is extended from November 6, 2007 to and including December 21, 2007;
4. The deadline for depositions to be completed is extended from December 6, 2007 to and including January 25, 2008;
5. The deadline for completion of all fact discovery is extended from December 6, 2007 to



Honorable Paul A. Crotty
October 12, 2007
Page 2


and including February 22, 2008; and

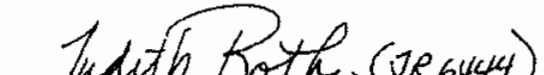
6. The deadline for completion of expert discovery is extended from January 25, 2008 to and including March 21, 2008.

There have been no prior requests for an extension of the dates provided for in the August 8, 2007 Scheduling Order. A proposed Revised Case Management Plan is attached.

Accordingly, the parties respectfully request that the Court approve the revised Case Management Plan, to which the parties have agreed, that would enable them to pursue the prosecution and defense of the litigation.

Respectfully submitted,


Phillip Gottfried, Esq. (PG 06278)
Counsel for plaintiff Klauber Brothers, Inc.


Judith Roth, Esq. (JR 6444)
Counsel for defendant Dreamwear, Inc.